

MAR 31 2006

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SECRETARIAT

2006 MAR 31 P 2:57

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

RR: 05L-14

DATE OF REFERRAL: April 27, 2005

DATE ACTIVATED: January 30, 2006

EXPIRATION OF SOL: October 22, 2009

SOURCE:

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RESPONDENTS:

Charles Taylor
Charles Taylor for Congress Committee
and David C. Blevins, in his official capacity as
treasurer

**RELEVANT STATUTES AND
REGULATIONS:**

2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(d)
2 U.S.C. § 441a-1(a)
2 U.S.C. § 441a-1(b)
11 C.F.R. § 400.2
11 C.F.R. § 400.4
11 C.F.R. § 400.9
11 C.F.R. § 400.10(a)(3)(ii)
11 C.F.R. § 400.20
11 C.F.R. § 400.21(b)
11 C.F.R. § 400.22(b)
11 C.F.R. § 400.23
11 C.F.R. § 400.24(b)
11 C.F.R. § 400.25
11 C.F.R. § 400.41

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

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I. INTRODUCTION

This matter concerns reporting requirements arising under the "Millionaires' Amendment" of the Bipartisan Campaign Reform Act of 2002, which obligates certain federal candidates to comply with special reporting and notification requirements after expending personal funds in excess of specific thresholds and thereafter, may allow opposing candidates to exceed normal contribution limits. The Reports Analysis Division ("RAD") has referred Charles Taylor for Congress Committee, the authorized committee of 2004 congressional candidate Charles Taylor, and David C. Blevins, in his official capacity as treasurer, (the "Committee") for the failure to file a statement notifying the Commission and Taylor's opponent that Taylor surpassed the applicable threshold by expending over \$350,000 in personal funds in support of his candidacy and for failure to file four (4) additional notifications (FEC Form 10) for additional expenditures of personal funds exceeding \$10,000 in support of his candidacy!—

Based on a review of the relevant disclosure reports on file with the Commission and other available information, this Office recommends that the Commission find reason to believe that the Committee violated provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and the Commission's regulations regarding the reporting of expenditures from personal funds. Because these laws create specific obligations for candidates, this Office recommends that the Commission find that Charles Taylor also violated the Act.

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II. FACTUAL AND LEGAL ANALYSIS

Charles Taylor declared his candidacy for the U.S. House of Representatives for North Carolina's Eleventh (11th) Congressional District in 2004 by filing FEC Form 2, Statement of Candidacy, with the Commission on August 29, 2003.² FEC Form 2 designated Charles Taylor for Congress Committee as Taylor's principal campaign committee and indicated that Taylor did not intend to spend any personal funds during the primary or general election over the \$350,000 threshold amount. However, as more specifically set out below, Taylor did exceed the aggregate threshold amount.

When a candidate for the United States House of Representatives "makes or obligates to make an aggregate amount of expenditures from personal funds in excess of \$350,000 in connection with any election" the candidate or his authorized committee must notify the Commission by filing an FEC Form 10 (24-Hour Notice of Expenditure From Candidate's Personal Funds) with the Commission within twenty-four hours after exceeding the threshold. 2 U.S.C. § 441a-1(b)(1)(C); 11 C.F.R. § 400.21(b); *see* 11 C.F.R. § 400.4(a) (definition of personal funds). Further, additional FEC Form 10 notifications are required to be filed within 24 hours of each additional expenditure of \$10,000 or more in connection with the election. 2 U.S.C. § 441a-1(b)(1)(D); 11 C.F.R. § 400.22(b). The candidate's committee must also send copies of its FEC Form 10 notifications to each opposing candidate and respective national party

² Within 15 days of becoming a candidate, candidates for the U.S. House of Representatives are required to file a declaration of intent with the Commission and each opposing candidate, stating the total amount of expenditures from personal funds the candidate intends to make with respect to the election that will exceed \$350,000. *See* 2 U.S.C. § 441a-1(b)(1)(B); 11 C.F.R. §§ 400.20 and 400.9. Declarations of intent for House candidates must be noted on the Statement of Candidacy (FEC Form 2). *See* 11 C.F.R. § 400.20(b)(2). Charles Taylor submitted his FEC Form 2 to the Commission in response to a letter from RAD.

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1 committee via facsimile or electronic mail within twenty-four hours of each relevant
2 expenditure.³ 2 U.S.C. § 441a-1(b)(1)(F); 11 C.F.R. §§ 400.21(b), 400.22(b) and 400.24(b). The
3 required notifications must include the date and amount of each expenditure from personal funds
4 and the total amount expended in the same election cycle as of the date of the filing.⁴ See 11
5 C.F.R. §§ 400.23 and 400.24(b). Although FEC Form 10 is signed by the committee treasurer,
6 under the Act candidates are responsible for ensuring that FEC Form 10 is properly filed by their
7 principal campaign committees. See 11 C.F.R. § 400.25.

8 According to Commission disclosure records, Taylor made a series of expenditures from
9 personal funds, consisting of loans and direct contributions, for his campaign between September
10 24 and November 2, 2004, all designated for the general election.⁵ Taylor's expenditures from
11 his personal funds for the 2004 General Election totaled \$807,000. Taylor exceeded the
12 \$350,000 threshold for personal expenditures with a \$140,000 loan to the Committee on October
13 22, 2004, which brought his total personal expenditures with respect to the general election from
14 \$250,000 to \$390,000. Thereafter, he made additional expenditures exceeding \$10,000 each on
15 four separate dates. The following table lists all disclosed contributions by Taylor, loans made

³ A candidate's personal expenditures could entitle his opponents to a threefold increase in the contribution limits under 2 U.S.C. § 441a(a)(1)(A) and a waiver of the limits on coordinated party expenditures under 2 U.S.C. § 441a(d). See 2 U.S.C. § 441a-1(a)(1); 11 C.F.R. § 400.41. Candidates are entitled to higher limits when the "opposition personal funds amount" exceeds \$350,000. See 2 U.S.C. § 441a-1(a)(2); 11 C.F.R. § 400.10.

⁴ An election cycle runs from the date after the most recent election for the specific office to the date of the next election for that office. See 11 C.F.R. § 400.2(a). The primary and general elections are considered separate election cycles. See 11 C.F.R. § 400.2(b).

⁵ An expenditure from personal funds includes direct contributions by the candidate, an expenditure made by a candidate using personal funds, loans made by the candidate using personal funds, and loans made to the candidate's committee that are secured by the candidate's personal funds. 2 U.S.C. § 441a-1(b)(1)(A); 11 C.F.R. § 400.4.

by Taylor to the Committee, and loans obtained by the Committee but secured by Taylor's personal funds:⁶

TABLE 1 – Charles Taylor's Personal Expenditures⁷

DATE	AMOUNT	TYPE OF EXPENDITURE	CUMULATIVE TOTAL
September 24, 2004	\$50,000	Loan	\$50,000
September 30, 2004	\$45,000	Loan	\$95,000
October 6, 2004	\$25,000	Loan	\$120,000
October 8, 2004	\$70,000	Loan	\$190,000
October 15, 2004	\$60,000	Loan	\$250,000

By exceeding the \$350,000 aggregate threshold of expenditures from his personal funds on October 22, 2004, the Committee and the candidate were obligated to file an FEC Form 10 with the Commission, and to send copies to Taylor's opponent and respective national party within 24 hours of the threshold expenditure. 2 U.S.C. § 441a-1(b)(1)(C). Moreover, four additional FEC Form 10 notices were required to be filed after Taylor made expenditures exceeding \$10,000 on the following dates: October 25, 2004, October 27, 2004, October 29, 2004, and November 2, 2004. 2 U.S.C. § 441a-1(b)(1)(D); 11 C.F.R. § 400.22(b). However, the Committee and the candidate failed to file any of the five required FEC Form 10 notifications.

⁶ The loans made on September 24, September 30, October 6, October 8, and October 15, 2004, consisted of draws from a \$250,000 line of credit obtained by the Committee but guaranteed by the candidate.

⁷ The candidate made two expenditures on October 25, 2004. However, the Committee was only required to file one FEC Form 10 for the loan and contribution made on that date.

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1 RAD sent a Request for Additional Information ("RFAI") to the Committee on December
2 28, 2004, requesting an explanation for the Committee's failure to file an FEC Form 10 (24 Hour
3 Notice of Expenditure from Candidate's Personal Funds), upon surpassing the \$350,000
4 threshold. According to the referral, a RAD analyst spoke with Nancy Day, a Committee
5 volunteer, about the RFAI on January 27, 2005. During the telephone conversation, Ms. Day
6 stated that she was unaware of the FEC Form 10 filing requirement. The RAD analyst suggested
7 that the Committee submit an explanation, concerning the failure to file the FEC Form 10
8 notices, to the Commission. Later that same day, the Committee filed an Amended 2004 30 Day
9 Post-General Report and a Miscellaneous Electronic Submission acknowledging that they were
10 not aware that FEC Form 10 even existed.⁸

11 As a result of the failure to file the required FEC Form 10 notifications with the
12 Commission, the opposing candidate and the respective national party, this Office recommends
13 that the Commission find reason to believe that Charles Taylor for Congress Committee, and
14 David C. Blevins, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a-1(b)(1)(C) and
15 441a-1(b)(1)(D) and 11 C.F.R. §§ 400.21(b) and 400.22(b). Since the Act places a requirement
16 on the candidate to ensure that the appropriate filings are made in a timely manner with respect
17 to expenditures from personal funds, this Office recommends that the Commission also find
18 reason to believe that Charles Taylor violated 2 U.S.C. §§ 441a-1(b)(1)(C) and 441a-1(b)(1)(D).

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⁸ The Amended 2004 30 Day Post-General Report included corrections and clarifications concerning specific contributions and a loan that were noted in the RFAI.

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IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Charles Taylor for Congress Committee and David C. Blevins, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a-1(b)(1)(C), 441a-1(b)(1)(D), and 11 C.F.R. §§ 400.21(b) and 400.22(b).
3. Find reason to believe that Charles Taylor violated 2 U.S.C. §§ 441a-1(b)(1)(C) and 441a-1(b)(1)(D).
4. Approve the attached Factual and Legal Analysis.
- 5.
- 6.

7. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

Rhonda J. Vosdingh
Associate General Counsel for Enforcement

March 31, 2006
Date

BY: Cynth E. Tompkins by MAA
Cynthia E. Tompkins
Assistant General Counsel

Ana J. Peña-Wallace
Ana J. Peña-Wallace by WSD
Attorney

Attachments:

1. Factual and Legal Analysis